

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

P.T.,	:	CIVIL ACTION NO. 08-2087 (MLC)
	:	
Plaintiff,	:	MEMORANDUM OPINION
	:	
v.	:	
	:	
MATAWAN-ABERDEEN REGIONAL	:	
BOARD OF EDUCATION,	:	
	:	
Defendant.	:	
_____	:	

THE PLAINTIFF, a minor, bringing this action on April 29, 2008, for relief pursuant to the Individuals with Disabilities in Education Act ("IDEA") against the defendant school district ("District") ("Federal Action") (dkt. entry no. 1, Compl.); and the plaintiff seeking review of a decision, dated April 14, 2008, of an administrative law judge ("ALJ Decision"), directing the District to immediately provide him with a certain amount of home instruction ("Amount") (id. at 4-6); and the ALJ Decision granting the relief to the plaintiff on an emergent basis, "pending determination of an appropriate program and placement in a plenary proceeding" before the New Jersey Office of Administrative Law ("OAL Proceeding") (id., Ex. E, 4-14-08 ALJ Dec. at 1, 6-7); and

THE PLAINTIFF simultaneously bringing the Federal Action and an OAL Proceeding (dkt. entry no. 6, Def. Br. at 1-2); and the plaintiff, in the Federal Action, alleging that the Amount is inadequate, and seeking an increase of the Amount pending the outcome of the OAL Proceeding (Compl. at 4-6); and

IT APPEARING that the plaintiff's parents admitted him to a facility ("Facility") in June 2008 "for testing and treatment for behavioral issues" for "no less than four months", and that "the costs are covered by [the plaintiff's] insurance policy" (Def. Br. at 2); and it appearing that the plaintiff then withdrew the OAL Proceeding (id.); and it appearing that the plaintiff is still in the Facility (id.; see generally dkt. entry no. 8, Pl. Br. (not indicating whether plaintiff has left the Facility)); and

THE DISTRICT now moving pursuant to Federal Rule of Civil Procedure 12(b)(1) to dismiss the complaint for lack of jurisdiction ("Motion") (dkt. entry no. 6); and the District arguing that the action is now moot, as the plaintiff (1) is being housed at the Facility and is not available for home instruction, and (2) withdrew the OAL Proceeding that he was directed to pursue by the ALJ Decision (Def. Br. at 4-5); and the District thus bringing a factual attack on the complaint; and

IT APPEARING that a "District Court lacks subject matter jurisdiction when the controversy has become moot", Goodmann v. People's Bank, 209 Fed.Appx. 111, 113 (3d Cir. 2006); and it appearing that the Federal Action is now moot since the plaintiff has (1) been unavailable for, and not been seeking, instruction at home because his parents have admitted him to the Facility, and (2) not pursued relief in an OAL Proceeding as anticipated in the ALJ Decision, see Jersey Cent. Power & Light Co. v. N.J., 772

F.2d 35, 39 (3d Cir. 1985) (stating, as to issues on appeal, "central question of all mootness problems is whether changes in circumstances that prevailed at the beginning of the litigation have forestalled any occasion for meaningful relief"); and it appearing that the plaintiff has, in effect, abandoned his pursuit of a modification of the Amount awarded in the ALJ Decision; and it further appearing that the plaintiff's circumstances will have changed due to the actions taken by his parents; and

THE PLAINTIFF, in response, "acknowledge[s] that Plaintiff withdrew the pending Due Process Petition which was then in front of [an administrative law judge]" (Pl. Br. at 2); and the Court carefully reviewing the plaintiff's arguments, and finding them to be without merit (id. at 3-7); and it appearing that the Motion can be decided without oral argument, see Fed.R.Civ.P. 78(b); and

THE COURT intending to grant the Motion and dismiss the complaint; and the Court noting that the plaintiff is not necessarily barred from seeking review in a federal district court – under a new docket number – of any further decisions concerning disputes over his education; and for good cause appearing, the Court will issue an appropriate order and judgment.

s/ Mary L. Cooper

MARY L. COOPER
United States District Judge

Dated: December 12, 2008